

### **IC 12-11-1.1**

#### **Chapter 1.1. Bureau of Developmental Disabilities Services; Community Based Services**

### **IC 12-11-1.1-1**

#### **Establishment; services; approving entities and providers; supported living service arrangements; community based services; administration**

Sec. 1. (a) The bureau of developmental disabilities services is established within the division.

(b) The bureau shall plan, coordinate, and administer the provision of individualized, integrated community based services for developmentally disabled individuals and their families, within the limits of available resources. The planning and delivery of services must be based on the developmentally disabled individual's future plans rather than on traditional determinations of eligibility for discrete services, with an emphasis on the preferences of the developmentally disabled individual and that individual's family.

(c) Services for developmentally disabled individuals must be services that meet the following conditions:

- (1) Are provided under public supervision.
- (2) Are designed to meet the developmental needs of developmentally disabled individuals.
- (3) Meet all required state and federal standards.
- (4) Are provided by qualified personnel.
- (5) To the extent appropriate, are provided in home and community based settings in which individuals without disabilities participate.
- (6) Are provided in conformity with a service plan developed under IC 12-11-2.1-2.

(d) The bureau shall approve entities to provide community based services and supports.

(e) The bureau shall approve and monitor community based residential, habilitation, and vocational service providers that provide alternatives to placement of developmentally disabled individuals in state institutions and health facilities licensed under IC 16-28 for developmentally disabled individuals. The services must simulate, to the extent feasible, patterns and conditions of everyday life that are as close as possible to normal. The community based service categories include the following:

- (1) Supervised group living programs, which serve at least four (4) individuals and not more than eight (8) individuals, are funded by Medicaid, and are licensed by the community residential facilities council.
- (2) Supported living service arrangements to meet the unique needs of individuals in integrated settings. Supported living service arrangements providing residential services may not serve more than four (4) unrelated individuals in any one (1) setting. However, the head of the bureau shall waive this limitation for a setting providing residential services to more

than four (4) unrelated individuals in any one (1) setting if the setting was in existence on June 30, 1999.

(f) To the extent that services described in subsection (e) are available and meet the individual's needs, an individual is entitled to receive services in the least restrictive environment possible.

(g) Community based services under subsection (e)(1) or (e)(2) must consider the needs of and provide choices and options for:

(1) developmentally disabled individuals; and

(2) families of developmentally disabled individuals.

(h) The bureau shall administer a system of service coordination to carry out this chapter.

*As added by P.L.272-1999, SEC.33. Amended by P.L.243-2003, SEC.11.*

### **IC 12-11-1.1-2**

#### **Medicaid funding; payment for services**

Sec. 2. (a) Except as specified by the terms of the Medicaid program:

(1) an individual who receives services under this chapter; and

(2) the parents of the individual, if the individual is less than eighteen (18) years of age;

are liable for the cost of services and supports.

(b) The bureau shall make every effort to assure that individualized service plans developed for developmentally disabled individuals maximize the amount of Medicaid funding available to meet the needs of the individual.

(c) The bureau may provide reimbursement for services identified in an individual's individual service plan that are not eligible for Medicaid reimbursement and for which the individual does not have the resources to pay.

*As added by P.L.272-1999, SEC.33.*

### **IC 12-11-1.1-3**

#### **Contracts to provide services**

Sec. 3. The division may contract with:

(1) community mental retardation and other developmental disabilities centers;

(2) corporations; or

(3) individuals;

that are approved by the division to provide the services described in this chapter.

*As added by P.L.272-1999, SEC.33.*

### **IC 12-11-1.1-4**

#### **Continuing eligibility for Medicaid**

Sec. 4. A developmentally disabled individual who is eligible for Medicaid remains eligible for Medicaid if transferred to community based services described in section 1(e) of this chapter.

*As added by P.L.272-1999, SEC.33.*

#### **IC 12-11-1.1-5**

##### **Continuing approved placement of individuals in certain facilities**

Sec. 5. The bureau may continue the approved placement of a developmentally disabled individual in a child caring institution licensed under IC 12-17.4, a county home regulated by IC 12-30-3, or a health facility licensed under IC 16-28 if:

- (1) the individual was placed in the institution, home, or facility before July 1, 1985; and
- (2) the placement continues to be appropriate for the individual, as determined by the bureau.

*As added by P.L.272-1999, SEC.33.*

#### **IC 12-11-1.1-6**

##### **Autistic individuals not excluded**

Sec. 6. An individual who has been diagnosed to be autistic may not be excluded from services for developmentally disabled individuals because the individual has autism.

*As added by P.L.272-1999, SEC.33.*

#### **IC 12-11-1.1-7**

##### **Community residential facilities operated by division**

Sec. 7. Subject to the availability of money, the division may operate community residential facilities for developmentally disabled individuals who are hard to place, if private providers cannot be found to operate facilities for those individuals. Placement of individuals in these facilities is governed by IC 12-11-2.1.

*As added by P.L.272-1999, SEC.33.*

#### **IC 12-11-1.1-8**

##### **Calculation of savings from transfer or discharge of individuals to community based resident setting**

Sec. 8. The budget agency shall annually:

- (1) calculate; and
- (2) report to the budget committee;

any savings realized from the transfer or discharge of individuals with developmental disabilities from a state developmental center to a community based resident setting.

*As added by P.L.272-1999, SEC.33.*

#### **IC 12-11-1.1-9**

##### **Rules**

Sec. 9. The director of the division may adopt rules under IC 4-22-2 to carry out this chapter.

*As added by P.L.272-1999, SEC.33.*

#### **IC 12-11-1.1-10**

##### **Provider assessment**

Sec. 10. (a) The office may assess providers of community based services to individuals with a developmental disability who otherwise qualify to receive ICF/MR (as defined in IC 16-29-4-2)

based services in an amount not to exceed six percent (6%) of all service revenue included on the annual plan of care excluding resident living allowances.

(b) The assessments shall be paid to the office not later than the tenth day of the month for each month that the individual is in service. The office or the office's designee may withhold Medicaid payments to a provider described in subsection (a) that fails to pay an assessment within thirty (30) days after the due date. The amount withheld may not exceed the amount of the assessments due.

(c) The community services quality assurance fund is created. The fund shall be administered by the office.

(d) Revenue from the assessments under this section shall be deposited into the fund. Money in the fund must be used for community services for persons with developmental disabilities.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(f) If federal financial participation to match the assessments in subsection (a) becomes unavailable under federal law, the authority to impose the assessments terminates on the date that the federal statutory, regulatory, or interpretive change takes effect.

*As added by P.L.259-2003, SEC.1. Amended by P.L.246-2005, SEC.101.*